

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 593

Water Resources

SPONSOR(S): Boyd

TIED BILLS: None

IDEN./SIM. BILLS: SB 2530

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Blalock	Reese
2)	Military & Local Affairs Policy Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Landscape irrigation accounts for one of the largest uses of water in Florida. Finding that water conservation is increasingly critical to the continuance of an adequate water supply for the citizens of the state, the legislature has found that "Xeriscape" or "Florida-friendly landscape" can contribute significantly to the conservation of water. This bill removes the term Xeriscape from Florida Statutes, replacing it with "Florida-friendly landscapes," and specifies additional principles that illustrate this particular landscaping approach. The bill also recognizes the University of Florida/ IFAS' Florida Yards and Neighborhoods Program as an educational resource, and provides that Florida-friendly landscapes may be a condition of any permit issued under Part II or part IV of chapter 373, F.S. (regulating consumptive use of water and the management and storage of surface waters respectively). The bill further provides legislative findings that the use of Florida-friendly landscaping and other measures that conserve Florida's water resources serve a compelling public interest and that the participation of homeowners' associations and local governments is essential to state water conservation efforts. This bill provides that deed restrictions, covenants, and local ordinances may not prohibit a landowner from applying Florida-friendly landscaping or create any requirement or limitation in conflict with any provision of Part II of chapter 373, F.S.

This bill also creates additional requirements for individuals to meet prior to being able to take the water well contractor licensure examination.

This bill does not appear to have a significant fiscal impact on state or local government.

This bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida-friendly Landscape

Present Situation

Landscape irrigation accounts for one of the largest uses of water in Florida. Finding that water conservation is increasingly critical to the continuance of an adequate water supply for the citizens of the state, the legislature has found that "Xeriscape" can contribute significantly to the conservation of water.¹ Moreover, the legislature finds that state government has the responsibility to promote Xeriscape as a water conservation measure by using Xeriscape on public property associated with publicly owned buildings or facilities.² "Xeriscape" or "Florida-friendly landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and that are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis that may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.³

Currently, s. 373.185, F.S., provides that each water management district must design and implement an incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require Xeriscape landscaping for development permitted after the effective date of the new ordinance or amendment. Each district must adopt rules governing the implementation of its incentive program and governing the review and approval of local government Xeriscape ordinances or amendments that are intended to qualify a local government for the incentive program. In addition, each district must assist the local governments within its jurisdiction by providing a model Xeriscape code and other technical assistance. A local government Xeriscape ordinance or amendment, in order to qualify the local government for a district's incentive program, must include certain minimum requirements.⁴ The districts also must work with local governments to promote, through educational programs and publications, the use of Xeriscape practices, including the use of solid waste compost, in existing residential and commercial development. This section may not be construed to limit the authority of the districts to require Xeriscape ordinances or practices as a condition of any consumptive use permit.⁵ A deed restriction or covenant entered after October 1,

¹ Section 255.259(1), F.S.

² Section 255.259(1), F.S.

³ Section 373.185(1)(b), F.S.

⁴ Section 373.185(2), F.S.

⁵ Section 373.185(2), F.S.

2001, or local government ordinance may not prohibit any property owner from implementing Xeriscape or Florida-friendly landscape on his or her land.⁶

The water management districts are required to work with statutorily specified organizations and governmental entities to develop landscape irrigation and xeriscape design standards for new construction that incorporate a landscape irrigation system and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping.⁷

The Florida Yards and Neighborhoods (FYN), which is established in the University of Florida's Cooperative Extension Service, is a public outreach educational program that encourages homeowners, landscape maintenance personnel, and others to practice environmentally sensitive landscape techniques to conserve water and protect water quality. FYN is the source of the term "Florida-Friendly Landscaping." FYN incorporates the principles of Xeriscape but goes one step further by focusing on all aspects of water quality and quantity that relate to urban landscape systems and the natural systems they impact. The FYN publishes a handbook¹⁵ explaining the concepts of Florida-friendly landscaping approach.

Effect of Proposed Changes

This bill amends s.373.185, F.S., removing the term Xeriscape from Florida Statutes, and replacing the term with "Florida-friendly landscapes." This bill also provides additional principles that illustrate this particular landscaping approach, taking such principles from the FYN handbook. These principles include:

- Planting the right plants in the right place;
- Efficient watering;
- Appropriate fertilization;
- Mulching;
- Attraction of wildlife;
- Responsible management of yard pests;
- Recycling yard waste;
- Reduction of stormwater runoff; and
- Waterfront protection.

This bill places emphasis on the University of Florida/ IFAS' Florida Yards and Neighborhoods Program as a recognized educational resource, and provides that Florida-friendly landscapes may be a condition of any permit issued under Part II or part IV of chapter 373, F.S. This bill further provides legislative findings that the use of Florida-friendly landscaping and other measures that conserve Florida's water resources serve a compelling public interest and that the participation of homeowners associations and local governments is essential to state water conservation efforts. In addition, this bill provides that a deed restriction, covenant, or local ordinance may not prohibit a landowner from incorporating Florida-friendly landscaping or create any requirement or limitation in conflict with any provision of part II of ch. 373, F.S. The bill also provides several conforming statutory cross references.

Water Well Contractors

Present Situation

Section 373.323(3), F.S., provides that an applicant for a water well contractor's license is entitled to take the licensure examination if the applicant, among other things, has at least two years of experience in constructing, repairing, or abandoning wells.

⁶ Section 373.185(3), F.S.

⁷ Section 373.228(4), F.S.

Effect of the Bill

This bill amends s. 373.323(3), F.S., to require applicants for a water well contractor's license to demonstrate proof of the required 2 years experience by providing:

- Evidence of the length of time the applicant has been engaged in the construction, repair, or abandonment of water wells. Such evidence shall be attested to by at least three letters from any of the following:
 - Water well contractors.
 - Water well drillers.
 - Water well parts and equipment vendors.
 - Water well inspectors.
- A list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years. Of these wells, at least seven must have been constructed by the applicant. The list must also include:
 - The name and address of the owner of each well.
 - The location, primary use, and depth and diameter of each well the applicant has constructed, repaired, or abandoned.
 - The approximate date the construction, repair, or abandonment of each well was completed.

B. SECTION DIRECTORY:

Section 1: Amends section 373.185, F.S., relating to local Florida-friendly landscape ordinances.

Section 2: Amends section 373.323, F.S., relating to the licensure of water well contractors.

Sections 3 through 11: Provide conforming amendments to ss. 125.568, 166.048, 255.259, 335.167, 373.228, 380.061, 388.291, 481.303, and 720.3075, F.S.

Section 4: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill appears to have an insignificant fiscal impact on state government expenditures. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

This bill appears to have an insignificant fiscal impact on local government expenditures. See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There may be some costs incurred by the water management districts in establishing the criteria governing the review and approval of local landscape ordinances and work with local governments, counties, nurseries, and other interested stakeholders to provide educational programs to promote the use of Florida-friendly landscaping.

There also may be some costs incurred by the municipalities that are required by this bill to consider enacting ordinances and enact the ordinances if they determine that the ordinances would be a significant benefit to water conservation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill exempts s. 373.185(3), F.S., from the provisions of ch. 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It appears that on line 34 of the bill, the word "landscape" should be added after "Florida-friendly".

It also appears that on line 115 and 119 of the bill the phrase "of this chapter" should be added at the end of the sentence to eliminate any ambiguity as to which chapter the provisions of this subsection apply.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A